

NEWS RELEASE

Office of Attorney General Terry Goddard



STATE OF ARIZONA
DEPARTMENT OF LAW
1275 W. Washington Street
Phoenix, Arizona 85007-2926

CONTACT:
Richard Travis
PRESS OFFICE
Phone: (602)-542-7922

FOR IMMEDIATE RELEASE

Arizona's share estimated to be \$1.5 million, mostly for AHCCCS

Arizona and other states reach settlement with Bristol-Myers Squibb

(Phoenix, AZ—March 7, 2003)—Attorney General Terry Goddard announced today a preliminary settlement in the federal antitrust suit brought against Bristol-Myers Squibb Co., Watson Pharma, Inc. and Danbury Pharmacal, Inc. This suit involved the widely prescribed, anti-anxiety drug BuSpar. Arizona, which prosecuted the suit along with 34 other states, the District of Columbia and Puerto Rico, alleged that Bristol and the other defendants took steps in violation of the antitrust laws which prevented generic BuSpar from coming to market. Arizona and the other states are filing papers with the Court today seeking Preliminary Approval of the Settlement.

"Actions like those taken by Bristol and the other defendants victimize those people who are most vulnerable. This settlement should serve as a wake up call to all pharmaceutical companies who would illegally keep less costly generic drugs from being available to those who need them," said Goddard.

As a result of the settlement, following final approval by the Court, a nationwide consumer fund will be established and administered by the Plaintiff States. As currently contemplated, monies contributed by the Plaintiff States for this fund will be supplemented by monies provided by the private end-payor class. The consumer fund will provide recompense to consumers for the entire damages period allowed by the Court (effectively, January 1, 1998 through December 31, 2002). Upon providing proof of the BuSpar purchases during the notice period, consumers should receive financial compensation for their damages. Because BuSpar is a maintenance drug, this likely will result in payments of \$220-\$300 for many consumers. Consumers who wish to get further information may call toll-free to 1-800-768-9687 or may visit the settlement web site at www.busparsettlement.com.

Arizona will also receive substantial monies as a result of the proposed settlement as compensation for damages suffered by the state and local agencies as a result of the alleged non-competitive conduct. While the ultimate allocation among the litigating states has not yet been determined, the estimated recovery by Arizona is approximately \$1.5 million, over \$1.4 million of which would go to AHCCS.

The settlement agreement also contains strong injunctive relief, which will prevent Bristol from engaging in the future in the type of conduct alleged in the complaint. Bristol is prevented from attempting to re-list the patent at issue in the Orange Book. Bristol is further prevented from attempting to list certain other types of patents in the Orange Book, if they would unreasonably delay generic entry. Additionally,

Bristol is forbidden to enter into agreements with generic drug manufacturers to settle patent infringement suits, if the result of such an agreement would potentially adversely affect competition. The injunction has a 10-year term. The proposed injunction was negotiated in coordination with the FTC, with the FTC taking the lead in the negotiations.

Texas, Maryland, and New York led a group including 35 other states, the District of Columbia and Puerto Rico in the BuSpar litigation.